

This brings me to minibus No. 3, which contains the Defense appropriations bill and the Labor, Health and Human Services, and Education appropriations bill. It funds our national security and many of our domestic priorities, and it demonstrates the importance of the bipartisan budget agreement that was reached earlier this year. In this combination of bills, we see the priorities that are outlined in that agreement made into real policy to improve the lives of the American people. It is not empty rhetoric but real policy, and that is why so many Republicans and so many Democrats voted for it.

As a result of the bipartisan budget deal, the Senate's Defense appropriations bill provides the men and women of our Armed Forces with the resources they need to carry out their missions effectively and safely. This is a goal that Republicans and Democrats share as Americans, and I know that in working with our House counterparts, we can produce a good bill for our troops and our Nation.

Then there is the Senate's Labor, HHS, and Education appropriations bill. I think of the way Senator PATTY MURRAY has worked so hard with Republicans and Democrats—with all of us—to put together a bill that reflects the interests of all of the country.

Look at the investments in healthcare and education. It increases funding for the National Institutes of Health by \$5 billion over fiscal year 2017. The NIH, the National Institutes of Health, is one of the treasures of America. It backs our commitment to increase access to higher education by increasing college affordability spending by \$2.3 billion over fiscal year 2017. My family came to Vermont in the mid-1800s. I was the first Leahy to get a college degree—my sister, the second. Then, when our children came along and our grandchildren, we never doubted it; of course, they would go to college. Yet that is not the same for an awful lot of people in this country, so we need this bill. It also increases access to childcare by \$3.2 billion over fiscal year 2017, and it invests nearly \$3 billion to combat the opioid crisis that has plagued communities across this country.

The House did not follow the Senate's bipartisan efforts. The House produced a partisan Labor-HHS bill that shortchanged programs for working Americans and was loaded with poison pill riders that could never pass in this body—from attacks on the Affordable Care Act to restrictions on family planning.

My staff and Senator SHELBY's staff—several of us—have been working days and weeks and weekends, and we will continue to do that in order to work out these differences. The differences are challenging but are not insurmountable. The reason we have to have a compromise is we have to get 60 votes in the Senate, and with this hodgepodge of poison pills that the House has passed there are not 60 votes.

I have said many times that if we are to have a strong national defense, we need to have a strong economy, an educated and healthy citizenry, and an able workforce. The programs that are funded in the Labor, HHS, and Education appropriations bill are critical to doing that. The deep ties that run between defense and nondefense priorities make it fitting that we have packaged these two bills together, but they have to stay together if we are going to get them across the finish line by October 1. If they are decoupled, it will destroy the bipartisan process we have worked so hard to establish, and it will not go through. It is possible that the CR will be included in this bill, so it is essential that it be bipartisan and free of any controversial matter.

Again, the reason we have been so successful in this Senate in moving appropriations bills is that we have worked together. Chairman SHELBY as chairman and I as vice chairman have worked together. Republicans and Democrats alike who are on the Appropriations Committee have worked together. We have cooperated with each other. We have met over and over again. Each side has shown restraint in pursuing issues we have felt strongly about because to have done so would have imperiled the whole process. There are certain things that I would have liked in this bill, and there are certain things my Republican counterparts might have liked in the bill, but we all know that the bill would not have gone anywhere if we had done that. Instead, we have come together on those things that can pass. Both sides have had to trust the other, as we have done, so we could reach agreement to move these bills forward.

Let's finish what we have started in the way we started it—through bipartisanship and cooperation. That means the Defense and Labor-HHS bills must remain together in one package. We cannot drop one and finish the other. That is a nonstarter. Everybody knows that. It also means the Senate must stand together if the House insists on producing partisan conference reports that contain poison pill riders. They cannot pass. Finally, it means we have to remain committed to finishing all three packages of bills and sending them to the President.

If House Republicans decide to delay minibus No. 2 until after the election and drop the Labor, HHS, and Education bill from minibus No. 3, it will mean the \$18 billion increase for Defense that is assumed in the bipartisan budget agreement will be enacted while the \$18 billion increase of nondefense programs could be left in the dust—a clear violation of the bipartisan budget agreement that was based on parity between defense and nondefense programs agreed to by both Republicans and Democrats. I predict it could not pass.

Funding the government is one of our most basic constitutional responsibilities. Americans expect us to work together, as the U.S. Senate did, and

across the aisle to reach agreement on these bills. The programs funded in these bills make a real difference in people's lives, and they should not be held up due to partisan differences. Let's do what we were sent here to do and pass these bills before the start of the new fiscal year. We can do it, and we have shown how to do it.

I yield the floor.

The PRESIDING OFFICER (Mr. SASSE). The Senator from Oregon.

#### NOMINATION OF BRETT KAVANAUGH

Mr. MERKLEY. Mr. President, the most important words of our Constitution are the first three—"We the People." It is the mission statement of our Nation—a nation of the people, by the people, for the people, as President Lincoln so eloquently stated, not a nation of, by, and for the powerful and the privileged.

Yet the powerful and the privileged are working overtime to undermine our Constitution. Ironically, they are using the courts to do it. We have seen it happening all week long as the Judiciary Committee has barreled ahead with hearings on Judge Brett Kavanaugh's nomination to the U.S. Supreme Court. This is the same Judge Kavanaugh whose record from 5 years of serving in a Presidential administration is still being hidden from the Senate and from the people of the United States of America.

For 5 years, Brett Kavanaugh had the ear of the President on a number of critical issues—on how we treat enemy combatants, conduct wars in Iraq and Afghanistan, use and expand Executive power through signing statements, or how the authorization for the use of military force is utilized. For 5 years, in the inner circle of America, he had been engaged in policy after policy after policy. Yet Chairman GRASSLEY and the committee Republicans are unwilling to allow that record of insights on his views to be shared with Senators under advice and consent responsibility.

Then there is this parallel process in which the documents that are being made available are first being vetted by Bill Burck. Who is Bill Burck? He is a partisan Republican lawyer who used to work for the nominee. He is the one who has the final say over what the Senate sees. He is the one who has the final say over what documents are released, not just to the Senate but to the American people.

He is the one who decided to release 42,000 pages of documents—not the ones from those 5 years we are talking about—just hours before the hearing began. Who could possibly review 42,000 pages the evening or the night before the hearing occurs? It is humanly impossible. There we are with a process normally headed by the nonpartisan National Archives, which is still trying to do its work but can't do its work until the end of October to vet these

documents. So instead of nonpartisan public servants vetting the documents, we have a partisan Republican lawyer, who worked for the nominee, deciding what we are going to see in the U.S. Senate, what the public and the United States is going to see. This is not transparency. This is censorship, and censorship is absolutely wrong in numerous contexts but particularly in intervening with the responsibility of the Senate.

Instead of integrity, we have deceit. Instead of honoring advice and consent responsibility, we are dishonoring that fundamental constitutional role. This is a rigged system, completely and absolutely rigged through the censorship of the documents we see and the blockade for the documents we need.

As Kristine Lucius, who is a former Judiciary Committee staff director who worked on half a dozen Supreme Court nominees, said, this process is “not just breaking the norms. It, frankly, is bordering on absurdity.” Absurdity, censorship, a complete failure of integrity, that is what is happening right this moment during the U.S. Senate’s deliberation of the Supreme Court nominee.

Not long ago, there was a time when my Republican colleagues argued for a full, transparent examination of a nominee’s record before the Senate could consider the nomination. When Justice Kagan was nominated 8 years ago by President Obama, Members of this body, my Republican colleagues, said: We stand for the principle of transparency. They said: We need the full record of the nominee’s White House service.

Chairman GRASSLEY said on the Senate floor: “In order for the Senate to fulfill its constitutional responsibility of advice and consent, we must get all of her documents from the Clinton Library and have enough time to analyze them so we can determine whether she should be a Justice.”

That was the Kagan standard articulated by my Republican colleagues and shared by my Democratic colleagues, a standard that was nonpartisan, a standard that was bipartisan, and a standard that was supported by Republicans and Democrats for the nomination process for a Supreme Court Justice.

The Kagan standard is one Democrats supported under a Democratic President and a Republican President. That is called integrity. That is called principle. What we have today is my Republican colleagues saying: We supported transparency under a Democratic President, but we support censorship and the blockade of documents under a Republican President. That is the opposite of principle. That is the opposite of integrity. The Kagan standard, supported by both sides just a couple of years ago, should be the standard we all support today.

We can’t fully evaluate Kavanaugh’s record if we don’t have the full record of his involvement on so many issues

during his time working in the executive branch.

Hearings are supposed to give us a chance to get at some of those issues, but what have we heard? Well, we heard the same, tired, obligatory responses, such as: I will be a judge who calls balls and strikes. We have heard that before, and then we have seen the rightwing judicial activists legislating from the bench on issue after issue after issue—on workers’ rights, on environmental rights, on consumer rights, on reproductive rights. We know it is “umpire” before you get there, and then suddenly it is a desire to implement a far-right, anti-American, anti-Constitution philosophy of control by the powerful and privileged, undermining the core principle of the Constitution of the United States of America.

What else have we heard from Judge Kavanaugh? We have heard: Well, that is settled law. That is, perhaps, the most artificial, phony response we can possibly hear. Why is it artificial and phony? Because when you are on the Supreme Court, the decisions you make become the interpretation. You either reinforce or you unsettle, but you have no obligation to follow what the courts have done before.

The Roberts Court has overturned “settled precedents” time after time after time, and for a nominee of the Supreme Court to pretend that isn’t the case, it means either he is ignorant or deliberately deceptive. I don’t think Judge Kavanaugh is ignorant. He knows the record. He knows the Supreme Court changes prior precedents. He knows they change “settled law,” and so to evade an issue saying, well, that is settled, is simply to be deceptive.

Sometimes, in addition to the hearings, we learn some information through a nominee’s meetings with Senators, but Judge Kavanaugh has refused to answer even the most basic questions about his jurisprudence, said Senator SCHUMER, following his own meeting with the nominee.

Senator SCHUMER went on to say that Mr. Kavanaugh refused to say if *Roe v. Wade* or *Casey v. Planned Parenthood* were correctly decided because that would actually be to indicate some sense of one’s judicial view, and we are getting nothing.

As Senator SCHUMER said, he couldn’t “recall his level of involvement in a number of controversies during his time in the Bush White House.” Here is a thought: If we get the records on his involvement in the Bush White House, we will actually know what his thoughts were, and maybe we can jog his memory that he so carefully and conveniently lost somewhere along the way. The American people deserve integrity in this process, and we are not getting it.

We do know a fair amount from his previous public decisions. We know he likes to legislate from the bench against workers, against consumers,

against clean air, and against clean water. We know he doesn’t believe healthcare is a fundamental right in the United States. We know he wants to strike down *Roe v. Wade*. We know he has a view of the Presidency that is appropriate for a King and a kingdom but not for a President and a republic.

He has this extraordinary view of Presidential power. He doesn’t believe a President can be indicted. He doesn’t believe a President can even be investigated. He believes a sitting President can choose to ignore laws passed by Congress if the President says they are unconstitutional, even if the court has said they are constitutional.

Think about that for a moment. Here is a judge saying he believes the President can ignore what the courts say is constitutional and unconstitutional. You can’t get more expansive Presidential power than that.

So why was Judge Kavanaugh chosen off of this list of 25 individuals? The answer is pretty clear. It is because he is the one who can write a “get out of jail free” card for the President of the United States—our President, who is under investigation. He is under investigation for colluding with foreign powers and flaunting our laws to win a national election. His former campaign chairman has been found guilty on eight different criminal charges. His former lawyer and fixer pled guilty to eight criminal charges and testified, as directed, to make illegal campaign payments at the direction of—drumroll, please—a candidate for Federal office. Who is this candidate for Federal office? None other than President Donald Trump—President Donald Trump, directing a felony crime.

When one hasn’t been indicted in that situation, it is referred to as an unindicted coconspirator. The Watergate grand jury used that term, “unindicted coconspirator,” to describe the role President Nixon played in that national scandal, and it fits perfectly with the role President Trump is playing today.

To say that a dark cloud of corruption hangs over this administration and hangs over this nomination would be a massive understatement. Until that cloud is lifted and until this President is cleared, this nomination should not be considered by this body.

We have already seen that my colleagues have flipped their position from having a Democratic President to a Republican President. They have turned transparency into censorship. They have taken the Kagan standard and trashed it. We cannot act as if all is well in the Republic. We cannot act as if everything is normal. We cannot act as if this is any other nomination put forward by any other President because it is not.

It should be clear to all of us that this nomination should not go forward until the Mueller investigation is concluded. I know my colleagues are not prepared to take that stand, but surely we can agree that the Senate cannot

perform its advice and consent while our hands are tied by a partisan vetting process, hiding hundreds of thousand documents from the Senate and from we the people.

I call upon my colleagues to rise from this low point of censorship and the trashing of the responsibility of advice and consent. Stand up for the same principles you stood up for just a couple of years ago, when you demanded the full record for the Senate to undertake its investigation into a nominee. Bring courage and integrity into this process. Publicly refuse to proceed until we the Senate and we the people have the full set of documents about this individual's records. To do any less is to bring shame and injustice upon this body that I believe in so strongly, a responsibility of advice and consent that I believe in so strongly, and a responsibility that my colleagues believed in so strongly just a couple of years ago.

Let's stand together, as we stood together just a couple of years ago, Democrats and Republicans, demanding transparency and integrity. Let this not be the moment when my colleagues fail to uphold their constitutional responsibilities.

Thank you.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Mr. President, first, I would like to comment briefly on the last two speeches. The first was from Senator LEAHY. He talked about the appropriations process. I commend him, as I did on the floor today in person, for the work he has done with Senator SHELBY and others to actually move these appropriations bills, these spending bills, through the process. For the first time in a couple of decades, we have the opportunity to actually get our work done. It is incredibly important for all the right reasons, including having proper oversight of the Federal agencies and departments. He deserves credit for that.

My colleague from Oregon just talked for a moment about the Kavanaugh hearings. He talked about the fact that he believes there is not enough information out about Brett Kavanaugh. Let me just say this. There has never been more information about any nominee to the Supreme Court, ever, in the history of our country. In fact, there are more pages of documents that have been provided on Brett Kavanaugh than for the past five Supreme Court confirmations combined—over 450,000 pages.

Maybe my colleagues who raised these concerns decided a long time ago they were going to vote no and said they are and that is fine, but I don't think you can blame it on the fact that there isn't enough documentation.

I know what they went, and I understand why they would want it. What they want is the documents that went through his office when he was Staff Secretary, which is a job at the White House where you are kind of like the

traffic cop, where everything that goes into the Oval Office and everything that comes out is coordinated and disseminated properly. But those weren't his documents. Yes, it is not appropriate to see all of those documents. That would be, by the way, millions of additional pages—millions. But the 488,000 pages that have been provided—including all of the documents from his legal positions where he was a judge, where he was an associate counsel in the White House—those have all been provided. That is good, and we should look at them and look at them carefully.

It is not about the documents. It is about some fundamental differences about philosophy. I like his philosophy. He says that you shouldn't legislate from the bench and that you should be independent as a judge and be fair.

He is totally qualified. The American Bar Association is sometimes criticized by Republicans as being too far to the left. It just said that he is "eminently qualified." In fact, they gave him their highest rating, and they gave it unanimously. This just happened last Friday. Not everybody knows this. This person is not just qualified. I believe he is as qualified as anybody in the country to be on the U.S. Supreme Court. I am looking forward to having the opportunity to have this vote here on the floor. I hope it can be bipartisan, as it has been for the nominees that President Obama brought forward, including then-Solicitor General Kagan and Judge Sotomayor. They were big bipartisan votes. Let's get back to that when somebody is as qualified as this candidate clearly is.

#### OPIOID EPIDEMIC

Mr. PORTMAN. Mr. President, I wish to speak about this issue of opioids and the crisis our country faces.

Just in the last couple of weeks we have gotten reports from the Centers for Disease Control from last year's data on overdoses and deaths: 72,000 Americans lost their lives to overdoses last year from drugs. Most of those were from opioids. This is heroin, prescription drugs, and, now, these synthetic opioids—72,000 Americans.

In the wake of that, it is encouraging to me to hear the Senate talking about the possibility of bringing a package of legislation to the floor that will help to push back against this crisis and begin to turn the tide. We have to do it—not just talk about it. We have to act because this crisis is upon us and is very real.

These new efforts that we should move forward on would build on what this Senate has already done with regard to the Comprehensive Addiction and Recovery Act, or the CARA legislation, which is now being implemented in my State of Ohio and around the country. There is also the Cures legislation, or the 21st Century Cures Act. It has some additional provisions that allow States to take funding and use it

to fight this opioid addiction. That is smart. There are smart ways for us to fight this opioid epidemic. We know that, and we are beginning to do that.

At the Federal level we can play a role in this, among other things, by taking better practices from around the country and ensuring they are being used back home in our States. I have seen this firsthand because I have been around the State of Ohio a lot since this legislation actually passed. I have actually visited more than a dozen grant recipients of CARA and Cures grants to see what they are doing and then spreading that around to other communities—maybe communities that haven't been able to get the grants but want to see something innovative to be able to push back.

Last Friday I visited Hope Village Recovery Center in Portage County, OH. They received more than \$500,000 in CARA funding to expand a badly needed medication-assisted treatment program. They decided to look at this in a very comprehensive way, and it is working. They are getting people who normally wouldn't step up for treatment to come for treatment, and their success rate for getting people through treatment and not relapsing is relatively high. That is so important right now, because if you don't get people into treatment with an addiction, which is a disease, you are not going to be able to solve this problem.

The comprehensive approach includes treatment, counseling, outpatient treatment, aftercare services, peer support—and these are coaches who are in recovery themselves, and that is very effective—and transportation services to get people back and forth. This holistic approach is what we need to help people begin to heal, get over their addiction, get back to their families, back to work, and back to achieving their God-given purpose in life, which is not to be an addict using these drugs.

Last week I also visited CommQuest Recovery Services in Stark County, OH, to see their new program, an innovative program called the "mom and me program." These are moms who want to help to get over their addiction. They are struggling. This program allows them to come on board to this facility that I got to see, to be able to have some of the loving support and care from people around them, but also to have their kids come with them. This is very unusual. Very few treatment centers in the country allow children to come into the treatment program. We have found through evidence-based programs looking at this that, in fact, if you allow the kids in there and there is proper supervision, it helps. It helps the mothers heal. It helps the kids to be able to heal.

So this is an innovative program that I think is going to end up with great results. They are just getting started on it, but it is going to foster the kind of success that we want to see.

Programs like these are working. Yet the epidemic seems to be getting